

1 THE HONORABLE BARBARA J. ROTHSTEIN
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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE WESTERN DISTRICT OF WASHINGTON
12 AT SEATTLE
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15 JENNIFER MILLER, EMAD AL-KAHLOUT,
16 HAMADY BOCOUM, CHRISTOPHER CAIN,
17 GARY GLEESE, JOSE GRINAN, KIMBERLY
18 HALO, CLARENCE HARDEN, KELLY
19 KIMMEY, JUMA LAWSON, STEVEN
MORIHARA, SHARON PASCHAL, and
PHILIP SULLIVAN, on behalf of themselves
and all others similarly situated,

20 Plaintiffs,
21
22 v.
23

24 AMAZON.COM, INC., and AMAZON
25 LOGISTICS, INC.,
26

Defendants.

Case No. 2:21-cv-00204-BJR

STIPULATED PROTECTIVE ORDER

1 1. PURPOSES AND LIMITATIONS

2 Discovery in the above-captioned action (the “Action”) is likely to involve production of
 3 confidential, proprietary, or private information for which special protection may be warranted.
 4 Accordingly, pursuant to Federal Rule of Civil Procedure 26(c), Plaintiffs Jennifer Miller, Emad
 5 Al-Kahlout, Hamady Bocoum, Christopher Cain, Gary Gleese, Jose Grinan, Kimberly Halo,
 6 Clarence Harden, Kelly Kimmey, Juma Lawson, Steven Morihara, Sharon Paschal, and Philip
 7 Sullivan, on behalf of themselves and all others similarly situated (collectively, “Plaintiffs”) and
 8 Defendants Amazon.com, Inc. and Amazon Logistics, Inc. (collectively, “Defendants”) (Plaintiffs
 9 and Defendants collectively, the “Parties”), by and through their respective counsel, hereby
 10 stipulate to and petition the Court to enter the following Stipulated Protective Order (the “Order”)
 11 for all phases of the Action.

12 The Parties acknowledge that this Order is consistent with Local Civil Rule 26(c). It does
 13 not confer blanket protection on all disclosures or responses to discovery, the protection it affords
 14 from public disclosure and use extends only to the limited information or items that are entitled to
 15 confidential treatment under the applicable legal principles, and it does not presumptively entitle
 16 the Parties to file confidential information under seal.

17 2. DEFINITIONS18 **2.1 Designated Material**

19 The term “Designated Material” shall mean any Discovery Material, as defined below,
 20 designated by a Producing Party, as defined below, as either “CONFIDENTIAL” or “HIGHLY
 21 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in accordance with Section 6 below.

22 **2.2 Confidential Information and Highly Confidential Information – Attorneys’
 23 Eyes Only**

24 (a) “CONFIDENTIAL” material shall include the following documents and
 25 tangible things produced or otherwise exchanged: (1) sensitive business, financial, or commercial
 26 information that is not publicly available, such as forecasts and analyses; (2) personal identifying

1 information of a natural person, including without limitation current and former street addresses,
 2 dates of birth, social security numbers telephone numbers, e-mail addresses, dates of birth, driver's
 3 license numbers, account numbers, maiden names, and passwords; and (3) documents containing
 4 sensitive information about a natural person, including, for example, personnel or employment
 5 records. The examples of CONFIDENTIAL information provided above are only illustrative, and
 6 during the course of this Action the Parties may produce Discovery Material, as defined below,
 7 that constitutes CONFIDENTIAL information, which information may be designated as
 8 "CONFIDENTIAL" information by the processes set forth in Section 6 of this Order.

9 (b) "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" information
 10 comprises or contains information that the Producing Party claims in good faith is highly
 11 confidential or highly sensitive, including but not limited to (a) current or future business strategies
 12 or other strategic planning information; (b) technical information, pricing and revenue information,
 13 or other sensitive financial data or business information, including proprietary algorithms; (c)
 14 research and development information; (d) information that reveals trade secrets, such as
 15 marketing and business plans; (e) customer information, including lists of customers; or (f)
 16 proprietary software, systems, or processes; and the disclosure of which to persons other than those
 17 set forth in Section 4.2 below would create a substantial risk of serious harm that could not be
 18 avoided by less restrictive means; provided, however, that the Court will decide, as necessary,
 19 whether any information should be sealed consistent with applicable legal authority. The examples
 20 of HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY information provided above are
 21 only illustrative, and during the course of this proceeding the Parties may produce Discovery
 22 Material, as defined below, that constitutes HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
 23 ONLY information, which information may be designated as "HIGHLY CONFIDENTIAL –
 24 ATTORNEYS' EYES ONLY" information by the processes set forth in Section 6 of this Order.
 25 For the avoidance of doubt, the Parties may designate in good faith information as "HIGHLY
 26 CONFIDENTIAL – ATTORNEYS' EYES ONLY" even if that information pertains to highly

1 sensitive business matters that are irrelevant to the issues, claims, or defenses in the instant Action.

2 **2.3 Discovery Material**

3 The term “Discovery Material” shall mean any Document, as defined below; electronically
4 stored information; material; item; testimony; or thing filed with or presented to the Court or
5 produced, served, exchanged, or generated during the discovery process, including, for example,
6 exhibits, answers to interrogatories, responses to requests for admissions, responses to requests for
7 production, subpoenas, declarations, affidavits, letters, emails, and deposition testimony or
8 transcripts, and all copies, extracts, summaries, compilations, designations, and portions thereof.

9 **2.4 Document**

10 The term “Document” shall mean every means of recording any form of communication
11 or representation upon any tangible thing, including specifically, but without limitation, letters,
12 words, pictures, sounds, or symbols, or combinations thereof, whether recorded by handwriting,
13 printing, photostatic, or photographic means, magnetic impulse, tape, computer disk, DVD, CD-
14 ROM, or any other form of electronically stored information (“ESI”) such as data storage, data
15 compilation, or mechanical or electronic recording, and all other tangible things which come
16 within the meaning of writing contained in Federal Rule of Evidence 1001, or within the meaning
17 of “documents” or “tangible things” contained in Federal Rule of Civil Procedure 34.

18 **2.5 Producing Party**

19 The term “Producing Party” shall mean any Party to this Action or any Third Party, as
20 defined below, including its counsel, retained experts, directors, officers, employees, or agents,
21 who produces any Discovery Material during discovery for this Action.

22 **2.6 Receiving Party**

23 The term “Receiving Party” shall mean any Party to this Action, including its counsel,
24 retained experts, directors, officers, employees, or agents, who receives any Discovery Material
25 from a Producing Party during this Action.

1 **2.7 Third Party**

2 The term “Third Party” shall mean a person or entity that is not a Party to this Action.

3 **2.8 Trial Counsel**

4 The term “Trial Counsel” shall mean as follows:

5 (a) The attorneys and employees of Terrell Marshall Law Group PLLC, Fair
6 Work, P.C., and Morgan & Morgan, P.C. responsible for this Action for Plaintiffs and any other
7 law firm (and its members and employees) which appears on behalf of Plaintiffs; and

8 (b) The attorneys and employees of Paul, Weiss, Rifkind, Wharton & Garrison
9 LLP and Morgan, Lewis & Bockius LLP responsible for this Action for Defendants and any other
10 law firm (and its members and employees) which appears on behalf of Defendants in this Action.

11 3. **RESTRICTIONS ON DISCLOSURE AND USE OF DESIGNATED MATERIAL**

12 3.1 **Scope**

13 The protections conferred by this Order cover not only CONFIDENTIAL and HIGHLY
14 CONFIDENTIAL – ATTORNEYS’ EYES ONLY information (as defined herein), but also (1)
15 any information copied or extracted from CONFIDENTIAL and/or HIGHLY CONFIDENTIAL
16 – ATTORNEYS’ EYES ONLY information; (2) all copies, excerpts, summaries, or compilations
17 of CONFIDENTIAL and/or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY
18 information; and (3) any testimony, conversations, or presentations by the Parties or their counsel
19 that might reveal CONFIDENTIAL and/or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
20 ONLY information. However, the protections conferred by this Order do not cover information
21 that is in the public domain or becomes part of the public domain through trial or otherwise.

22 3.2 **Limited Use**

23 The information contained in Designated Material shall be used only for prosecuting,
24 defending, or attempting to settle this Action, or any appeal, except as otherwise set forth in this
25 Order. The information contained in Designated Material shall not be used or disclosed for any
26 other purpose, including, without limitation, any business or commercial purpose.

1 **3.3 Confidentiality**

2 Designated Material and the information derived from such Designated Material
3 (excluding information that is derived lawfully from an independent source) shall not be given,
4 shown, made available, discussed, or otherwise communicated or disclosed in any manner, either
5 directly or indirectly, to any person not authorized to receive the information under the terms of
6 this Order.

7 **3.4 Maintenance of Designated Material**

8 Designated Material must be stored and maintained by a Receiving Party at a location and
9 in a secure manner that ensures that access is limited to the persons authorized under the terms of
10 this Order.

11 **3.5 Restrictions on Designated Material**

12 The restrictions on the use of Designated Material established by this Order are applicable
13 to the Receiving Party.

14 **3.6 Discovery from Third Parties**

15 Information sought or obtained from a Third Party shall be treated as Designated Material
16 if requested by the Third Party. Any such information designated as “CONFIDENTIAL” or
17 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to Section 6 by a Third
18 Party will be accorded the same protection as the Parties’ Designated Material, and will be subject
19 to the same procedures as those governing disclosure of the Parties’ Designated Material pursuant
20 to this Order. Any Party may seek to challenge designations by a Third Party under the provisions
21 of Section 7 after providing at least ten (10) calendar days written notice to the Third Party and
22 agreeing that it will not object to the Third Party appearing in this Action for the limited purpose
23 of seeking to preserve its requested designation.

24 **3.7 Unintentional Disclosure of Designated Material**

25 If any Party learns that, by inadvertence or otherwise, the Producing Party has disclosed
26 Designated Material to any person or in any circumstance not authorized under this Order, that

1 Party must immediately (a) notify in writing the Producing Party of the unauthorized disclosures,
 2 (b) use its best efforts to retrieve all unauthorized copies of the Designated Material, (c) inform
 3 the person or persons to whom unauthorized disclosures were made of all the terms of this Order,
 4 and (d) request that such person or persons execute the “Acknowledgment and Agreement to Be
 5 Bound” that is attached hereto as Exhibit A.

6 **4. ACCESS TO AND USE OF DESIGNATED MATERIAL**

7 **4.1** Unless otherwise directed by the Court or authorized in writing by the Producing
 8 Party, Discovery Material designated as “CONFIDENTIAL” under this Order may be disclosed
 9 by the Receiving Party only to the following persons:

10 (a) The Parties to whom disclosure is reasonably necessary;
 11 (b) The Receiving Party’s counsel of record in this Action, as well as employees
 12 of Trial Counsel to whom it is reasonably necessary to disclose the information for this Action;
 13 (c) the officers, directors, and employees (including in-house counsel) of the
 14 Receiving Party to whom disclosure is reasonably necessary for this Action;

15 (d) experts and consultants to whom disclosure is reasonably necessary for this
 16 Action, and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
 17 with disclosure only to the extent necessary to perform such work and subject to the provisions of
 18 Section 5;

19 (e) the Court, Court personnel, and Court reporters and their staff;
 20 (f) mediators or other alternative dispute resolution settlement judges engaged
 21 in connection with this Action;

22 (g) copy or imaging services retained by Trial Counsel for the Receiving Party
 23 to assist in the duplication of Designated Material, provided that Trial Counsel for the Receiving
 24 Party retaining the copy or imaging service instructs the service not to disclose any Designated
 25 Material to Third Parties and to immediately return all originals and copies of any Designated
 26 Material;

(h) during their depositions, witnesses in the Action to whom disclosure is reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise agreed by the Producing Party or ordered by the Court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Designated Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Order; and

(i) the author or recipient of Designated Material containing the CONFIDENTIAL information or a custodian or other person who otherwise possessed or knew the CONFIDENTIAL information

(j) professional jury or trial consultants, mock jurors, and professional vendors to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgement and Agreement to Be Bound" (Exhibit A).

4.2 Unless otherwise directed by the Court or authorized in writing by the Producing Party, Discovery Material designated as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” may be disclosed by the Receiving Party only to the following persons:

(a) Trial Counsel for the Receiving Party, as well as employees of Trial Counsel to whom it is reasonably necessary to disclose the information for this Action;

(b) in-house legal counsel and legal paraprofessionals for the Receiving Party responsible for this Action;

(c) experts and consultants who are expressly retained by Trial Counsel and/or the Receiving Party to provide assistance in this Action, to whom disclosure is reasonably necessary for this Action, and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), with disclosure only to the extent necessary to perform such work and subject to the provisions of Section 5;

(d) the Court, Court personnel, and Court reporters and their staff;

(e) mediators or other alternative dispute resolution settlement judges engaged

1 in connection with this Action;

2 (f) copy or imaging services retained by Trial Counsel for the Receiving Party
3 to assist in the duplication of Designated Material, provided that Trial Counsel for the Receiving
4 Party retaining the copy or imaging service instructs the service not to disclose any Designated
5 Material to Third Parties and to immediately return all originals and copies of any Designated
6 Material;

7 (g) during their depositions, witnesses in the Action to whom disclosure is
8 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound"
9 (Exhibit A), unless otherwise agreed by the Producing Party or ordered by the Court. Pages of
10 transcribed deposition testimony or exhibits to depositions that reveal Designated Material must
11 be separately bound by the court reporter and may not be disclosed to anyone except as permitted
12 under this Order; and

13 (h) the author or recipient of Designated Material containing the HIGHLY
14 CONFIDENTIAL – ATTORNEYS' EYES-ONLY information or a custodian or other person who
15 otherwise possessed or knew the CONFIDENTIAL – ATTORNEYS' EYES ONLY information.

16 **4.3 Filing Designated Material**

17 Before filing Designated Material or discussing or referencing Designated Material in
18 Court filings, the filing party shall confer with the Producing Party, in accordance with Local Civil
19 Rule 5(g)(3)(A), to determine whether the Producing Party will remove the confidentiality
20 designation(s) from the Designated Material, whether the Designated Material can be redacted, or
21 whether a motion to seal or stipulation and proposed order is warranted. During the meet and
22 confer process, the Producing Party must identify the basis for sealing the specific Designated
23 Material at issue, and the filing party shall include this basis in its motion to seal, along with any
24 objection to sealing the Designated Material at issue. Local Civil Rule 5(g) sets forth the
25 procedures that must be followed and the standards that will be applied when a Party seeks
26 permission from the Court to file material under seal. A Party who seeks to maintain the

1 confidentiality of its Designated Material must satisfy the requirements of Local Civil Rule
 2 5(g)(3)(B), even if it is not the Party filing the motion to seal. Failure to satisfy this requirement
 3 will result in the motion to seal being denied, in accordance with the strong presumption of public
 4 access to the Court's files.

5 **5. CONDITIONS ON ACCESS TO DESIGNATED MATERIAL**

6 A consultant or expert may only be shown Designated Material pursuant to Sections 4.1(d)
 7 or 4.2(c) above, to the extent necessary to provide assistance in this Action, provided that:

8 (a) any such consultant or expert is not an employee, director, officer, or
 9 attorney of a Receiving Party (including any of its divisions, subsidiaries, or affiliates), is not an
 10 employee, director, officer, agent, attorney, or other representative of a direct business competitor
 11 of any Party, and is not currently advising a direct business competitor of any Party on matters
 12 relating to the subject matter of this Action; and

13 (b) prior to disclosure of any Designated Material to the consultant or expert,
 14 the consultant or expert shall sign the "Acknowledgment and Agreement to Be Bound" (Exhibit
 15 A).

16 **6. PROCEDURE FOR MARKING DESIGNATED MATERIAL**

17 **6.1 Exercise of Restraint and Care in Designating Material for Protection**

18 Each Party or Third Party that designates Discovery Material for protection under this
 19 Order must take care to limit any such designation to specific Discovery Material that qualifies
 20 under the appropriate standards. The Producing Party must designate for protection only those
 21 parts of Discovery Material that qualify, so that other portions of the Discovery Material for which
 22 protection is not warranted are not swept unjustifiably within the ambit of this Order.

23 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
 24 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to
 25 unnecessarily encumber or delay the case development process or to impose unnecessary expenses
 26 and burdens on other Parties) expose the Producing Party to sanctions.

1 If it comes to a Producing Party's attention that Designated Material that it designated for
 2 protection does not qualify for protection, the Producing Party must promptly notify all other
 3 Parties that it is withdrawing the mistaken designation.

4 **6.2 Manner and Timing of Designations**

5 Except as otherwise provided in this Order, or as otherwise stipulated or ordered, disclosure
 6 of Discovery Material that qualifies for protection under this Order must be clearly so designated
 7 before or when the Discovery Material is disclosed or produced. Any Producing Party may mark
 8 Discovery Material as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'
 9 EYES ONLY" in accordance with this Order. The designation of Designated Material as
 10 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" shall be
 11 deemed effective unless and until the Court orders otherwise or the Producing Party withdraws the
 12 designation. Designated Material must be marked in the following manner:

13 (a) Information in documentary form, e.g., paper or electronic Documents and
 14 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings:
 15 the Producing Party must affix the words "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –
 16 ATTORNEYS' EYES ONLY", as appropriate, to each page that contains Designated Material. If
 17 only a portion or portions of the material on a page qualifies for protection, the Producing Party
 18 also must clearly identify the protected portions(s), *e.g.*, by making appropriate markings in the
 19 margins. If a Document is produced electronically in its native format, such as an Excel
 20 spreadsheet, the designation shall be made by including the words "CONFIDENTIAL" or
 21 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY", as appropriate, in the file name of
 22 the Document.

23 (b) Testimony given in a deposition or in other pretrial proceedings: the Parties
 24 and any participating Third Parties must identify on the record, during the deposition or other
 25 pretrial proceeding, all protected testimony, without prejudice to their right to so designate other
 26 testimony after reviewing the transcript. Any Party or Third Party may, within fifteen (15)

1 calendar days after receiving the transcript of the deposition or other pretrial proceeding, designate
 2 portions of the transcript, or exhibits thereto, as “CONFIDENTIAL” or “HIGHLY
 3 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”, as appropriate. If a Party or Third-Party
 4 desires to protect CONFIDENTIAL information or HIGHLY CONFIDENTIAL – ATTORNEYS’
 5 EYES ONLY information at trial, that issue should be addressed during the pre-trial conference.

6 (c) Other tangible items: the Producing Party must affix in a prominent place
 7 on the exterior of the container or containers in which the Designated Material is stored the words
 8 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”, as
 9 appropriate. If only a portion or portions of the Designated Material warrant protection, the
 10 Producing Party, to the extent practicable, shall identify the protected portion(s).

11 **6.3 Increasing Designations**

12 A Party may increase the confidentiality designation (*i.e.*, change the designation of any
 13 Discovery Material without any designation to a designation of “CONFIDENTIAL”, or change
 14 any Designated Material with a designation of “CONFIDENTIAL” to a designation of “HIGHLY
 15 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) of Discovery Material or Designated
 16 Material produced by any other Party or Third Party, provided that said Discovery Material or
 17 Designated Material contains the CONFIDENTIAL or HIGHLY CONFIDENTIAL –
 18 ATTORNEYS’ EYES ONLY information of the Party seeking to increase the confidentiality
 19 designation. Increasing a confidentiality designation shall be accomplished by providing written
 20 notice to all Receiving Parties identifying (by bates number or other individually-identifiable
 21 information) the Discovery Material or Designated Material whose confidentiality designation is
 22 to be increased. Promptly after providing such notice, the Party seeking to increase the
 23 confidentiality designation shall provide re-labeled copies of the Discovery Material or Designated
 24 Material to each other Receiving Party reflecting the increase in designation. All Receiving Parties
 25 shall replace the previously-designated Discovery Material or Designated Material with the newly-
 26 designated Discovery Material or Designated Material and will destroy all copies in their

1 possession, custody, or control of the previously-designated Discovery Material or Designated
 2 Material. Any Party may object to the increased confidentiality designation pursuant to the
 3 procedures set forth in Section 7.

4 **6.4 Inadvertent Failures to Designate**

5 If timely corrected, an inadvertent failure to designate Discovery Material as
 6 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” does not,
 7 standing alone, waive the Producing Party’s right to secure protection under this Order for such
 8 Discovery Material. Upon timely correction of a designation, the Receiving Party must make
 9 reasonable efforts to ensure that the Designated Material is treated in accordance with the
 10 provisions of this Order.

11 7. **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

12 **7.1 Timing of Challenges**

13 Any Party or Third Party may challenge a designation of “CONFIDENTIAL” or
 14 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” at any time. Unless a prompt
 15 challenge to a Producing Party’s confidentiality designation is necessary to avoid foreseeable,
 16 substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the
 17 litigation, a Party or Third Party does not waive its right to challenge a confidentiality designation
 18 by electing not to mount a challenge promptly after the original designation is disclosed.

19 **7.2 Meet and Confer**

20 The Parties and any involved Third Parties must make every attempt to resolve any dispute
 21 regarding confidentiality designations without Court intervention. Any motion regarding
 22 confidentiality designations or for a protective order must include a certification, in the motion or
 23 in a declaration or affidavit, that the movant has engaged in a good faith meet and confer
 24 conference with other affected Parties and Third Parties in an effort to resolve the dispute without
 25 Court intervention. The certification must list the date of, manner of, and participants to the meet
 26 and confer conference. A good faith effort to meet and confer requires a face-to-face meeting or

1 a telephonic conference.

2 **7.3 Judicial Intervention**

3 If the Parties and any involved Third Parties cannot resolve a challenge without Court
 4 intervention, the Producing Party may file and serve a motion to retain confidentiality under Local
 5 Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
 6 persuasion in any such motion shall be on the Producing Party. Frivolous challenges, and those
 7 made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on
 8 other Parties) may expose the challenging Party or Third Party to sanctions. All Parties and any
 9 involved Third Parties shall continue to maintain the challenged Designated Material as
 10 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”, as
 11 appropriate, until the Court rules on the challenge.

12 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER**
 13 **LITIGATION**

14 If a Party is served with a subpoena or a court order issued in other litigation that compels
 15 disclosure of any Designated Material, that party must:

16 (a) promptly notify the Producing Party in writing and include a copy of the
 17 subpoena or court order;

18 (b) promptly notify in writing the Party or Third Party who caused the subpoena
 19 or order to issue in the other litigation that some or all of the material covered by the subpoena or
 20 order is subject to this Order. Such notification shall include a copy of this Order; and

21 (c) cooperate with respect to all reasonable procedures sought to be pursued by
 22 the Producing Party whose Designated Material may be affected.

23 **9. INADVERTENT PRODUCTION OF PRIVILEGED OR PROTECTED MATERIAL**

24 **9.1** When a Producing Party gives notice to a Receiving Party that certain inadvertently
 25 produced Discovery Material is subject to a claim of privilege or other protection (such notice, a
 26 “Privileged Material Notice”), the obligations of the Receiving Party are those set forth in Federal
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1 Rule of Civil Procedure 26(b)(5)(B). For the avoidance of doubt, a Receiving Party's obligations
 2 under Federal Rule of Civil Procedure 26(b)(5)(B) also apply to any work product reflecting the
 3 contents of the privileged or otherwise protected Discovery Material, and any privileged or
 4 otherwise protected Discovery Material that is not reasonably accessible because of undue burden
 5 or cost is considered sequestered. This Section is not intended to modify any procedure that may
 6 be established in an order or agreement that provides for production without prior privilege review.
 7 The Parties agree to the entry of a non-waiver order under Federal Rule of Evidence 502(d), as set
 8 forth herein.

9 **9.2** The process for contesting a claim that Discovery Material is privileged or
 10 otherwise protected shall be as follows:

11 (a) If the Receiving Party contests the claim that the Discovery Material is
 12 privileged or otherwise protected, the Receiving Party must, within seven (7) calendar days of
 13 receipt of the Privileged Material Notice, notify the Producing Party in writing of the contestation.

14 (b) Any contestation to a Privileged Material Notice shall be made exclusively
 15 based on information provided to the Receiving Party in the Privileged Material Notice, and shall
 16 not refer to, quote, cite, or otherwise use the contested Discovery Material. Following the receipt
 17 of such a contestation, the Producing and Receiving Parties shall meet and confer in an effort to
 18 resolve any disagreement regarding the Producing Party's claim that the contested Discovery
 19 Material is privileged or otherwise protected.

20 (c) If the Producing and Receiving Parties cannot resolve their disagreement,
 21 then the Receiving Party may promptly present the issue to the Court for a determination of the
 22 Producing Party's claim of privilege or other protection by submitting any contested Discovery
 23 Material under seal in compliance with Federal Rule of Civil Procedure 26(b)(5)(B). Nothing in
 24 this Order limits the right of any Party to petition the Court for an *in-camera* review of the
 25 contested Discovery Material. Any Party making a motion to the Court for an order compelling
 26 disclosure of the contested Discovery Material must not assert as a ground for compelling

1 disclosure the fact or circumstances of the disclosure.

2 (d) While any such application is pending, the contested Discovery Material
3 subject to that application will be treated as privileged or otherwise protected until the Court rules.
4 If the Court determines that the contested Discovery Material is privileged or otherwise protected,
5 the Receiving Party must comply with the requirements of Section 9.1.

6 (e) If the Receiving Party, after making a contestation to the Producing Party,
7 does not apply to the Court for a ruling on the designation of the contested Discovery Material as
8 privileged or otherwise protected within thirty (30) calendar days from the receipt of the Privileged
9 Material Notice (regardless of whether the Receiving and Producing Parties met and conferred on
10 the subject), or by such later date as the Producing and Receiving Parties may agree, the contested
11 Discovery Material shall be deemed privileged or otherwise protected, in which case the Receiving
12 Party must comply with the requirements of Section 9.1.

13 (f) The Producing Party retains the burden of establishing the privileged or
14 otherwise protected nature of the contested Discovery Material. The Producing Party must
15 preserve the contested Discovery Material until the claim is resolved. The Producing and
16 Receiving Parties may stipulate to extend the time periods set forth in paragraphs (a) and (e) of
17 this Subsection.

18 10. **INTENTIONAL AND SUBJECT MATTER WAIVER.**

19 This Order does not preclude a Party from intentionally and voluntarily waiving the
20 attorney-client privilege, work product protection, or other protection. Where a Party makes such
21 an intentional and voluntary waiver, the provisions of Federal Rule of Evidence 502(a) apply.

22 11. **RESERVATION OF RIGHTS AND MISCELLANEOUS PROVISIONS**

23 **11.1 No Limitation of Other Rights**

24 Nothing in this Order shall prejudice the right of any Party to oppose production of any
25 information or Discovery Material on any and all grounds other than confidentiality.

1 **11.2 Release From or Modification of This Order**

2 Nothing in this Order shall prejudice the right of any Party to apply to the Court at any time
 3 for additional protection; to release, rescind, or modify the restrictions of this Order; to determine
 4 whether a particular person shall be entitled to receive any particular Discovery Material; or to
 5 seek relief from the inadvertent disclosure of Discovery Material subject to the attorney-client
 6 privilege, work product protection, or other protection. This Order does not preclude any of the
 7 Parties from entering any stipulation (in writing or on the record) constituting a modification of
 8 this Order subject to the Court's review.

9 **11.3 Admissibility**

10 Nothing in this Order shall be construed to affect in any way the evidentiary admissibility
 11 of any Discovery Material, testimony, or other matter at any court proceeding in this Action.

12 **12. TERMINATION AND RETURN OF DOCUMENTS**

13 Within sixty (60) calendar days after the termination of this Action, including all appeals,
 14 each Receiving Party must return all Designated Material to each corresponding Producing Party,
 15 including all copies, extracts, and summaries thereof. To the extent that Designated Material is
 16 not reasonably accessible because of undue burden or cost, the Receiving and Producing Parties
 17 may agree upon an appropriate approach to comply with the terms of this Section. Alternatively,
 18 the Receiving and Producing Parties may agree upon appropriate methods of destruction of the
 19 Designated Material and an agreed-upon deadline for such destruction. The Receiving Party, or
 20 its Trial Counsel, shall deliver to the Producing Party, or its Trial Counsel, written confirmation
 21 that there has been compliance with the terms of this Section or, alternatively, of the Receiving
 22 and Producing Parties' agreement pursuant to this Section.

23 Notwithstanding this Section, Trial Counsel are entitled to retain one archival copy of all
 24 documents filed with the Court; trial, deposition, and hearing transcripts; correspondence; expert
 25 reports; attorney work product; and consultant and expert work product, even if such archival
 26 copies contain Designated Material.

1 The confidentiality obligations imposed by this Order shall remain in effect until a
2 Producing Party agrees otherwise in writing or a court orders otherwise. This Court shall retain
3 jurisdiction over all persons subject to this Order to the extent necessary to enforce any obligations
4 arising from this Order or to impose sanctions for any contempt thereof.

5 13. ATTORNEY'S ETHICAL RESPONSIBILITIES

6 Nothing in this Order overrides any attorney's ethical responsibilities to refrain from
7 examining or disclosing Discovery Material that the attorney knows or reasonably should know to
8 be privileged or otherwise protected and to inform the Producing Party that such Discovery
9 Material has been produced.

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD this 10th day of
2 September, 2024.

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61 *Attorneys for Defendant Amazon.com, Inc. and
62 Amazon Logistics, Inc.*

1 PURSUANT TO STIPULATION, IT IS SO ORDERED

2 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any
3 documents, electronically stored information (ESI) or information, whether inadvertent or
4 otherwise, in this proceeding shall not, for the purposes of this proceeding or any other federal or
5 state proceeding, constitute a waiver by the producing party of any privilege applicable to those
6 documents, including the attorney-client privilege, attorney work-product protection, or any other
7 privilege or protection recognized by law. This Order shall be interpreted to provide the maximum
8 protection allowed by Fed. R. Evid. 502(d). The provisions of Fed. R. Evid. 502(b) do not apply.
9 Nothing contained herein is intended to or shall serve to limit a party's right to conduct a review
10 of documents, ESI or information (including metadata) for relevance, responsiveness and/or
11 segregation of privileged and/or protected information before production. Information produced
12 in discovery that is protected as privileged or work product shall be immediately returned to the
13 producing party.

14

15 DATED: September 11, 2024.

16

17 

18 The Honorable Barbara J. Rothstein
19 United States District Court Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of
5 perjury that I have read in its entirety and understand the Stipulated Protective Order that was
6 issued by the United States District Court for the Western District of Washington on [date] in the
7 case of _____ **Jennifer Miller, et al., v. Amazon.com, Inc., et al., 2:21-cv-00204-BJR.** I agree to comply with and to be bound by all the terms of this Stipulated Protective Order
8 and I understand and acknowledge that failure to so comply could expose me to sanctions and
9 punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner
10 any information or item that is subject to this Stipulated Protective Order to any person or entity
11 except in strict compliance with the provisions of this Order.
12

13 I further agree to submit to the jurisdiction of the United States District Court for the
14 Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective
15 Order, even if such enforcement proceedings occur after termination of this action.

16 Date:

17 | City and State where sworn and signed:

18 Printed name:

19 || Signature: